Remarks/Arguments:

Claims 1-5, 9-11, 16-21, 25-26 and 33-34 stand rejected under 35 U.S.C. 103(a) as obvious over Matsumi et al. (U.S. Patent No. 6,038,094), Shinohara et al. (U.S. Patent No. 5,740,306) and Singh et al. (U.S. Patent No. 5,819,113). It is respectfully submitted, however, that the claims are patentable over the art of record for the reasons set forth below.

Applicants' invention, as recited by amended claim 1, includes a feature which is neither disclosed nor suggested by the art of record, namely:

...data rate detecting means of detecting a data rate of the received bit stream by counting a number of packets received by said inputting means over a predetermined time, the predetermined time being a time taken by said recording means to record data on said predetermined medium in a predetermined format....

This feature is found in the originally filed application at page 24, line 21 through page 25, line 4. No new matter has been added.

Matsumi discloses a digital data recording device. When the device receives signals having a low data rate, it changes its recording tape speed accordingly. See Matsumi col. 10, lines 1-40. Matsumi does not disclose how it determines when it has received signals having a low data rate. Accordingly, Matsumi does not disclose or suggest "data rate detecting means of detecting a data rate of the received bit stream by counting a number of packets received by said inputting means over a predetermined time, the predetermined time being a time taken by said recording means to record data on said predetermined medium in a predetermined format," as required by Applicants' claim 1.

Shinohara discloses a digital signal recording and playback device. The device extracts rate information from the header of a received packet and determines the transmission rate of the received data from the extracted rate information. See Shinohara col. 39, lines 55-60; col. 39, line 65 through col. 40, line 2; and col. 40, lines 11-30. Thus, Shinohara determines the transmission rate of the received data by extracting the rate from the header of a received packet. Accordingly, Shinohara does not disclose or suggest "data rate detecting means of detecting a data rate of

the received bit stream by counting a number of packets received by said inputting means over a predetermined time, the predetermined time being a time taken by said recording means to record data on said predetermined medium in a predetermined format," as required by Applicants' claim 1.

Singh is directed to a method of identifying an end of a packet. The end of a packet is identified by either incrementing or decrementing a counter each time a byte of information is written into memory. Because the number of bytes per packet is known, the end of the packet is identified when either the counter reaches a value corresponding to the predetermined number of bytes or reaches zero. See col. 5, line 44 through col. 6, line 5. Thus, Singh does not disclose detecting a _data rate_ by _counting a number of packets_ over a predetermined time as required, but instead discloses _detecting an end of a packet_ by counting a number of _bytes_ written to memory.

It is _because_ Applicants include the feature of "data rate detecting means of detecting a data rate of the received bit stream by counting a number of packets received by said inputting means over a predetermined time, the predetermined time being a time taken by said recording means to record data on said predetermined medium in a predetermined format," that the following advantages may be achieved. Namely, a data rate may be accurately calculated for all received data, thereby allowing for accurately and efficiently selecting a recording rate for the received data based on the calculated data rate.

Accordingly, for the reasons set forth above, claim 1 is patentable over the art of record.

Claims 3, 18, 20, 33 and 34, while not identical to claim 1, include features similar to claim 1. Accordingly, claims 3, 18, 20, 33 and 34 are also patentable over the art of record for the reasons set forth above.

Claims 2, 5, 9-13, 16, and 17 include all the features of claim 1 from which they depend. Claims 4, 5, 7, and 16, and 17 include all the features of claim 3 from which they depend. Claims 19, 25, and 26 include all the features of claim 18 from which they depend. Claims 21, 25, and 26 include all the features of claim 20 from
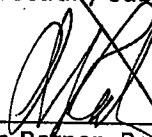
which they depend. Thus, claims 2, 4, 5, 7, 9-14, 16, 17, 19, 21, 25 and 26 are also patentable over the art of record for the reasons set forth above.

In view of the amendments and arguments set forth above, the above-identified application is in condition for allowance which action is respectfully requested.

Respectfully submitted,

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